

**Docket No. 2730R-01****Serial No: 08/888,462****REMARKS**

Claims 1, 4, 6, 8-11, 13, 15-17, 19-21 and 31-46 -30 are pending in the present application.

**Obviousness-Type double Patenting**

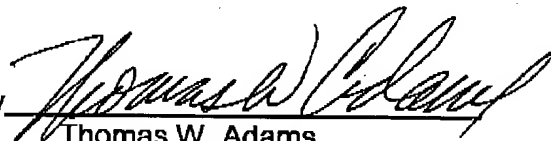
In the Office Action dated 28 April 2004, an obviousness-type double patenting rejection was applied against the presently pending claims, in view of U.S. Patent No. 5,883,057. Applicants submit herewith a Terminal Disclaimer with respect to U.S. Patent No. 5,883,057, in accordance with 37 CFR 1.321(c).

Accordingly, Applicants respectfully submit that the application, containing claims 1, 4, 6, 8-11, 13, 15-17, 19-21 and 31-46 -30, is now in condition for allowance and request notice to such effect.

In the event any issues remain in the prosecution of this application, Applicants request the Examiner call the undersigned attorney to expedite allowance of the claims. If any additional fees are required for the filing of these papers, Applicants request the Commissioner to charge those fees to deposit account #12-2275.

Respectfully submitted,  
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By



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PTO/SB/29 (08-03)

Approved for use through 4/30/2003, OMB 0851-0031

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)

2730-01

In re Application of: **Scharf et al.**Application No.: **08/888,462**Filed: **July 7, 1997**For: **LUBRICATING COMPOSITIONS**

The owner, The Lubrizol Corp., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 5,883,057. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer. In the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

Signature

Date

David Shold

Reg. No. 31,664

Typed or printed name

440-347-1601

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) ~~XXXXXX~~ to be charged to Deposit Acct. 12-2275.

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\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
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This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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